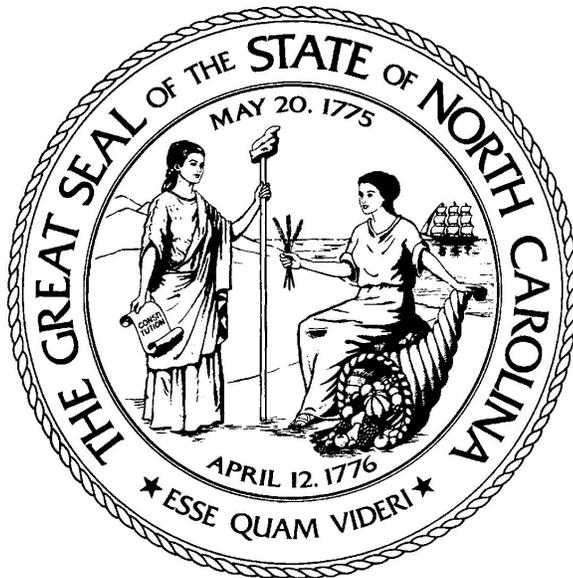


**JOINT STUDY COMMITTEE ON AUTISM
SPECTRUM DISORDER AND PUBLIC
SAFETY**



**REPORT TO THE
2010 REGULAR SESSION OF
THE 2009 GENERAL ASSEMBLY**

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STATE OF NORTH CAROLINA



**JOINT STUDY COMMITTEE ON AUTISM SPECTRUM
DISORDER AND PUBLIC SAFETY**

May 11, 2010

To: Senator Marc Basnight, President Pro Tempore of the North Carolina Senate
Representative Joe Hackney, Speaker of the North Carolina House of Representatives
Members of the 2010 Regular Session of the 2009 General Assembly

Attached is a report from the Joint Study Committee on Autism Spectrum Disorder and Public Safety submitted pursuant Section 10.21D of Session Law 2009-451 (SB202). The report contains recommendations and proposed legislation based on study conducted after the adjournment of the 2009 Regular Session of the General Assembly.

Respectfully submitted,

Senator William Purcell, MD

Representative Bob England, MD

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THE JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDER AND PUBLIC SAFETY

Session Law 2009-451

AUTISM SPECTRUM DISORDER AND PUBLIC SAFETY STUDY

SECTION 10.21D.(a) There is established the Joint Study Committee on Autism Spectrum Disorder and Public Safety (Committee). The Committee shall consist of members and co-chairs appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Committee and the terms of the members shall expire when the Committee submits a final report to the General Assembly. Members serve at the pleasure of the appointing officer.

SECTION 10.21D.(b) The Committee shall study ways to increase the availability of appropriate autism-specific education and training to public safety personnel, first responder units, judges, district attorneys, magistrates, and related organizations. The Committee may also study any other issue it deems relevant to Autism Spectrum Disorder and public safety.

SECTION 10.21D.(c) The Committee shall meet upon the call of its co-chairs. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 10.21D.(d) The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 10.21D.(e) Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, and G.S. 138-5 and G.S. 138-6, as appropriate.

SECTION 10.21D.(f) The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Funds for the Committee shall be as appropriated to the General Assembly for this purpose.

SECTION 10.21D.(g) The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

SECTION 10.21D.(h) The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 10.21D.(i) The Committee may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before May 1, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before December 31, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on December 31, 2010, or upon the filing of its final report, whichever occurs first.

COMMITTEE PROCEEDINGS

The Joint Study Committee on Autism Spectrum Disorder and Public Safety met 4 times during the 2009-2010 interim. The Committee heard from the individuals listed below during the specified meeting dates. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

February 3, 2010

- Dr. Rob Christian, Clinical Assistant Professor of Pediatrics & Child Psychiatry at the Carolina Institute of Developmental Disabilities, UNC provided the Committee an overview on Autism Spectrum Disorder.
- Shawn Parker, Legislative Analyst, Research Division, North Carolina General Assembly briefed the Committee on states which have laws mandating insurance coverage for autism spectrum disorder.
- Lorri Unumb, Senior Policy Advisor with the national, non-profit group “Autism Speaks” presented on Applied Behavior Analysis (ABA) therapy and the societal costs of untreated autism.
- Dr. David Kaylie, a specialist in hearing and speech development at Duke University Medical Center presented on speech and occupational therapy insurance coverage for persons with autism spectrum disorder.
- Beverly Moore, Secretary, Board of Directors, Autism Society of NC spoke to the Committee about her personal experiences with her autistic child Kirby

March 4, 2010

- Mr. Marc Lambright, FSA MAAA, Oliver Wyman Actuary Consulting, Inc. presented on an actuarial assessment report on cost estimates for autism coverage based on comparable legislation under consideration in other states.
- Ms. Carol Durell, Director of Product Development, State Health Plan, provided an overview of current coverage under the State Health Plan for Teachers and Employees.
- Dr. Genie Komives, Vice President and Senior Medical Director, Blue Cross Blue Shield of North Carolina spoke to the organizations concerns for the medical care provided to children diagnosed with autism spectrum disorder and the financial impact on all BCBS members if such a mandate is enacted.
- Mr. John McAlister, Vice President for Government Affairs, North Carolina Chamber presented on the impact of insurance mandates on employers.

April 15, 2010

- Heather Dominique, Office of Housing and Homelessness, DHHS, presented on residential services programs within the Department that could benefit persons with a primary diagnosis of autism spectrum disorder.
- Dr. Pam Silberman, President and CEO, NC Institute of Medicine, presented an overview and recommendations from the report of the NCIOM Task Force on Transitions for People with Intellectual and Other Developmental Disabilities.
- Dawn Allen, Executive Director, GHA, Inc presented on community based housing options for persons with autism spectrum disorder and on the economic impact on failing to address housing and support needs for individuals with ASD
- Dennis Bradshaw, Executive Director, Residential Services Incorporated, presented information to the Committee about Spring Glen Retirement Community which is a program that offers a broad range of housing services for people with autism or developmental disabilities.

May 11, 2010

- Shawn Parker, Committee Staff, presented an overview of the Joint Study Committee on Autism Spectrum Disorder and Public Safety Interim Report.
- Joint Study Committee on Autism Spectrum Disorder and Public Safety members considered the report.

FINDINGS AND RECOMMENDATIONS

Chairs:

Senator William Purcell, MD
Representative Bob England, MD

RECOMMENDATION:

The Joint Study Committee on Autism Spectrum Disorder and Public Safety recommends the General Assembly enact legislation to require health benefit plans, including the State Health Plan, to require coverage for the treatment of autism spectrum disorder.

DRAFT LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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D

BILL DRAFT 2009-SQz-30 [v.2] (05/07)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/7/2010 4:46:00 PM

Short Title: Treatment of Autism Disorders.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE HEALTH BENEFIT PLANS, INCLUDING THE STATE
3 HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES, TO PROVIDE
4 COVERAGE FOR TREATMENT OF AUTISM SPECTRUM DISORDERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by
7 adding a new section to read:

8 "§ 58-3-192. Coverage for autism spectrum disorders.

9 (a) Definitions. – As used in this section:

10 (1) "Autism services provider." – Any person, entity, or group that
11 provides treatment of autism spectrum disorders.

12 (2) "Autism spectrum disorders." – Any of the pervasive developmental
13 disorders as defined in the Diagnostic and Statistical Manual of Mental
14 Disorders (DSM-IV), or subsequent edition published by the American
15 Psychiatric Association, or the International Statistical Classification
16 of Diseases and Related Health Problems (ICD-10), or subsequent
17 edition published by the World Health Organization.

18 (3) "Behavioral care." – Any practices for the purpose of increasing
19 appropriate or adaptive behaviors and/or decreasing maladaptive
20 behaviors and/or developing, maintaining, or restoring, to the
21 maximum extent practicable, the functioning of an individual, that
22 include the systematic management of environmental factors and/or
23 the consequences of behaviors.

24 (4) "Diagnosis of autism spectrum disorder." – Any medically necessary
25 assessment, evaluations, or tests to diagnose whether an individual has
26 an autism spectrum disorder.

- 1 (5) "Health plan." – As defined in G.S. 58-3-167. For purposes of this
2 section, "health benefit plan" includes the State Health Plan for
3 Teachers and State Employees.
- 4 (6) "Licensed" or "certified." – Licensed or certified by the State of North
5 Carolina for services provided in North Carolina or by the state in
6 which the care is provided.
- 7 (7) "Medically necessary." – Any care, treatment, intervention, service,
8 or item that will, or is reasonably expected to, do any of the following:
9 a. Prevent the onset or worsening of an illness, condition, injury, or
10 disability;
11 b. Reduce or ameliorate the physical, mental, behavioral, or
12 developmental effects of an illness, condition, injury, or disability;
13 c. Assist to achieve or maintain functional capacity in performing daily
14 activities, taking into account both the functional capacity of the
15 individual and the functional capacities that are appropriate for
16 individuals the same age.
- 17 (8) "Pharmacy care." – Medications prescribed by a licensed physician
18 and any health-related services deemed medically necessary to
19 determine the need for or effectiveness of the medications.
- 20 (9) "Psychiatric care." – Direct or consultative services provided by a
21 licensed psychiatrist.
- 22 (10) "Psychological care." – Director consultative services provided by a
23 licensed psychologist.
- 24 (11) "Therapeutic care." – Services provided by licensed or certified speech
25 therapist, occupational therapist, or physical therapist.
- 26 (12) "Treatment for autism spectrum disorders." – Any of the following
27 care prescribed or ordered by a licensed physician or a licensed
28 psychologist for an individual diagnosed with an autism spectrum
29 disorder:
30 a. Behavioral care- when provided or supervised by a licensed or
31 certified healthcare professional as defined in G.S. 58-3-192 (6)
32 within the scope of practice as defined by law.
33 b. Pharmacy care.
34 c. Psychiatric care.
35 d. Psychological care.
36 e. Therapeutic care.

37 (b) Every health benefit plan, including the State Health Plan for Teachers and
38 State Employees, shall provide coverage for the diagnosis and treatment of autism
39 spectrum disorders in individuals. No insurer shall terminate coverage or refuse to
40 deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because
41 the individual is diagnosed with one of the autism spectrum disorders or has received
42 treatment for autism spectrum disorders.

43 (c) Coverage under this section shall not be subject to any limits on the number
44 of visits an individual may make to an autism services provider.

1 (d) Coverage under this section shall not be denied on the basis that the
2 treatments are habilitative or educational in nature.

3 (e) Coverage under this section may be subject to co-payment, deductible, and
4 coinsurance provisions of a health benefit plan that are not less favorable than the
5 co-payment, deductible, and coinsurance provisions that apply to other medical services
6 covered by the health benefit plan.

7 (f) This section shall not be construed as limiting benefits that are otherwise
8 available to an individual under a health benefit plan.

9 (g) Coverage for behavioral therapy under this section will be subject to a
10 maximum benefit of seventy-five thousand dollars (\$75,000) per year. Payments made
11 by an insurer on behalf of a covered individual for any care, treatment, intervention,
12 service, or item unrelated to autism spectrum disorders shall not be applied towards any
13 maximum benefit established under this section.

14 (h) Except for inpatient services, if an individual is receiving treatment for autism
15 spectrum disorders, a health benefit plan shall have the right to request a review of that
16 treatment not more than once every 12 months unless the insurer and the individual's
17 licensed medical doctor or licensed psychologist agrees that a more frequent review is
18 necessary. The cost of obtaining any review shall be borne by the insurer."

19 **SECTION 2.** G.S. 135-45 reads as rewritten:

20 "**§ 135-45. Undertaking.**

21 (a) The State of North Carolina undertakes to make available a State Health Plan
22 (hereinafter called the "Plan") exclusively for the benefit of eligible employees, eligible
23 retired employees, and certain of their eligible dependents, which will pay benefits in
24 accordance with the terms of this Article. The Plan shall have all the powers and
25 privileges of a corporation and shall be known as the State Health Plan for Teachers and
26 State Employees. The Executive Administrator and Board of Trustees shall carry out
27 their duties and responsibilities as fiduciaries for the Plan. The Plan shall administer one
28 or more group health plans that are comprehensive in coverage and shall provide
29 eligible employees and retired employees coverage on a noncontributory basis under at
30 least one of the group plans with benefits equal to that specified in subsection (g) of this
31 section. The Executive Administrator and Board of Trustees may operate group plans as
32 a preferred provider option, or health maintenance, point-of-service, or other
33 organizational arrangement and may offer the plans to employees and retirees on a
34 noncontributory or partially contributory basis. Plans offered on a partially contributory
35 basis must provide benefits that are additional to that specified in subsection (g) of this
36 section and may not be offered unless approved in an act of the General Assembly.

37 (b) Individuals eligible for coverage under G.S. 135-45.2 on a fully or partially
38 contributory basis are eligible to participate in any plan authorized under this section.

39 (c) The State of North Carolina deems it to be in the public interest for North
40 Carolina firefighters, rescue squad workers, and members of the National Guard, and
41 certain of their dependents, who are not eligible for any other type of comprehensive
42 group health insurance or other comprehensive group health benefits, and who have
43 been without any form of group health insurance or other comprehensive group health
44 benefit coverage for at least six consecutive months, to be given the opportunity to

1 participate in the benefits provided by the State Health Plan for Teachers and State
2 Employees. Coverage under the Plan shall be voluntary for eligible firefighters, rescue
3 squad workers, and members of the National Guard who elect participation in the Plan
4 for themselves and their eligible dependents.

5 (d) The Plan benefits shall be provided under contracts between the Plan and the
6 claims processors selected by the Plan. The Executive Administrator may contract with
7 a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such
8 contracts shall include the applicable provisions of G.S. 135-45.1 through
9 G.S. 135-45.15 and the description of the Plan in the request for proposal, and shall be
10 administered by the respective claims processor or Pharmacy Benefits Manager, which
11 will determine benefits and other questions arising thereunder. The contracts necessarily
12 will conform to applicable State law. If any of the provisions of G.S. 135-45.1 through
13 G.S. 135-45.15 and the request for proposals must be modified for inclusion in the
14 contract because of State law, such modification shall be made. The Executive
15 Administrator shall ensure that the terms of the contract between the Plan and the Plan's
16 Claims Processing Contractor, the Pharmacy Benefit Manager, and the Disease
17 Management Contractor require the contractor to provide the following:

- 18 (1) Detailed billing by each entity showing itemized cost information,
19 including individual administrative services provided;
- 20 (2) Transactional data; and
- 21 (3) The cost to the Plan for each administrative function performed by the
22 contractor.

23 (e) Payroll deduction shall be available for coverage under this Part for
24 subscribers able to meet the Plan's requirements for payroll deduction.

25 (f) Notwithstanding any other provisions of the Plan, the Executive
26 Administrator and Board of Trustees are specifically authorized to use all appropriate
27 means to secure tax qualification of the Plan under any applicable provisions of the
28 Internal Revenue Code of 1954 as amended. The Executive Administrator and Board of
29 Trustees shall furthermore comply with all applicable provisions of the Internal
30 Revenue Code as amended, to the extent that this compliance is not prohibited by this
31 Article.

32 (g) The Executive Administrator and Board of Trustees shall not change the
33 Plan's comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket
34 expenditures, and lifetime maximums in effect on ~~July 1, 2009~~, January 1, 2011 that
35 would result in a net increased cost to the Plan or in a reduction in benefits to Plan
36 members unless and until the proposed changes are directed to be made in an act of the
37 General Assembly.

38 (h) The Plan shall provide coverage under its Basic and Standard PPO options for
39 the diagnosis and treatment of lymphedema. The coverage shall be the equivalent of
40 coverage under G.S. 58-3-280.

41 (i) The Plan shall provide coverage under its Basic and Standard PPO options for
42 the diagnosis and treatment of autism spectrum disorder. The coverage shall be the
43 equivalent of coverage under G.S. 58-3-192.

1 **SECTION 3.** This act becomes effective January 1, 2011, and applies to all
2 health benefit plans that are delivered, issued for delivery, or renewed within this State,
3 or outside this State if insuring North Carolina residents, on and after that date.
4

